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**Name of Organization:** Rural New York Environmental Law & Policy Center

**Type of Organization:** Other

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**Project Title:** Reducing Toxic Discharges from New York Landfills

**Project Category:** Pollution Prevention and Reduction - BNS

**Rank by Organization (if applicable):** 0

**Total Funding Requested (\$):** 43,995 **Project Duration:** 2 Years

**Abstract:**

Numerous active landfills and landfill proposals in New York are located in the Lake Ontario and Lake Erie basins. Leaks from landfills are foreseeable but go unreported as toxic releases. Characterization of landfill leachate is incomplete but has been performed by EPA and others who have determined priority pollutants are among the constituents. New York rural towns within the two basins have been identified by New York State, New York City, and private landfill developers as likely locations for future increases in landfill capacity in response to the planned closure of New York City's Fresh Kills landfill. The siting and regulation of solid waste facilities in New York requires compliance with both state and local law. This project will address the two-track state and local regulatory regime governing efforts to ensure environmental protection from landfill impacts, the potential for release of toxics into the two lake basins from solid waste disposal facilities, the potential for reducing toxic releases from landfills into the two lake basins, and will provide early advice and assistance to underserved rural areas faced with landfill siting, permit expansion or cleanup proposals.

**Geographic Areas Affected by the Project**

**States:**

<input type="checkbox"/> Illinois	<input checked="" type="checkbox"/>	New York
<input type="checkbox"/> Indiana	<input type="checkbox"/>	Pennsylvania
<input type="checkbox"/> Michigan	<input type="checkbox"/>	Wisconsin
<input type="checkbox"/> Minnesota	<input type="checkbox"/>	Ohio

**Lakes:**

<input type="checkbox"/> Superior	<input checked="" type="checkbox"/>	Erie
<input type="checkbox"/> Huron	<input checked="" type="checkbox"/>	Ontario
<input type="checkbox"/> Michigan	<input type="checkbox"/>	All Lakes

**Geographic Initiatives:**

<input type="checkbox"/> Greater Chicago	<input type="checkbox"/> NE Ohio	<input type="checkbox"/> NW Indiana	<input type="checkbox"/> SE Michigan	<input type="checkbox"/> Lake St. Clair
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**Primary Affected Area of Concern:** Not Applicable

**Other Affected Areas of Concern:**

***For Habitat Projects Only:***

**Primary Affected Biodiversity Investment Area:** Not Applicable

**Other Affected Biodiversity Investment Areas:**

**Problem Statement:**

13,000 tons of residential solid waste per day must be diverted from New York City's Fresh Kills Landfill by 2002, and New York rural towns have been identified by New York State Department of Environmental Conservation (NYSDEC), New York City, and private landfill developers as likely locations for future increases in landfill capacity.

The five largest of New York's seven commercial landfills are located in the Lake Erie and Lake Ontario basins. In 1998 these five landfills accepted 2,751,000 tons of solid waste, and their remaining permitted capacity is 21,660,000 tons, over 95 percent of New York's total commercial landfill capacity after Fresh Kills. NYSDEC proposes to expand the capacity of three of these landfills by another 20 million tons.

An application in the Town of Albion would be the second commercial landfill in close proximity to the Erie Canal, adding 7,350,000 tons of solid waste to the Lake Ontario basin. Another commercial proposal is in the Town of Eagle (Lake Erie basin) for which a permit application may be forthcoming.

Publicly owned landfills also exist within the two basins, including the two largest (Mill Seat; Ontario County) which accepted over 400,000 tons of solid waste in 1998 and have over 8 million tons of unused permitted capacity. NYSDEC is reviewing a proposal for another publicly owned landfill in the Town of Ava (Lake Ontario basin) whose capacity would exceed these two, adding 12.9 million tons.

According to U.S. EPA, leachate generation in landfills continues long after closure and even the best liner and leachate collection systems will ultimately fail. EPA has also noted that, because toxic constituents of landfills have already been reported as releases, landfill leaks go unreported as toxic releases. Potential toxic loading into the Great Lakes watershed from landfill leaks includes otherwise regulated hazardous chemicals such as the Priority Pollutants as well as hazardous chemicals for which no regulatory limits have been established and which are not measured in an investigation of the characteristics of landfill leachate.

New York towns have the power to impose conditions adequate to minimize the potential for toxic releases from landfills, up to an outright ban on landfills, but rarely if ever do so. This is the result in part of the state's policy promoting "self-sufficiency" in landfill capacity for the state's own waste. In much larger part, however, it is the result of a lack of resources and knowledge regarding local governmental powers that prevails in the underserved rural communities where landfills are sited.

Rural towns and non-governmental concerned citizens organizations in New York usually do not learn or learn too late in a siting process that state law does not preempt local governmental powers over solid waste management, because the

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technical assistance provided by state agencies to private developers and the financial and legal resources with which developers come to the process overwhelm local stakeholders. Told by NYSDEC and commercial proponents that state law is adequately protective and believing that their limited resources cannot sustain a protracted dispute in either a legal or administrative context, towns feel pressured to sign on to host community agreements incorporating state minimum environmental protections.

Few citizens groups develop productive relationships with their local government. Most lose focus and become reduced to shrill "NIMBY" voices, all too easily dismissed by both state and local decisionmakers. When opportunities for public comment on siting or cleanup plans are made available by state or federal agencies, local governmental and non-governmental stakeholders do not understand the language and technical nature of the issues and therefore often fail to participate, or offer comments that are less than helpful.

This conflict between state and local interests, responsibilities and powers makes it unlikely that toxic releases from New York landfills into the two lake basins will be reduced without increasing local involvement. Market forces and New York state policy are also unlikely to encourage decreasing reliance on land burial of waste in the urban centers served by New York's rural land and water resources. An important unmet need therefore exists for early education and advice to local stakeholders, including outreach meetings and a center for resources on environmental law and policy.

**Proposed Work Outcome:**

1. provide early education to towns, counties, and citizens groups with networking, communication of their issues through conventional and web-based media, building relationships with their community and local governmental decisionmakers;
2. outreach to encourage and assist local stakeholders to make use of internet access to governmental and other information services;
3. legal advice and representation to towns, counties, and citizens groups in preparation of public comments, participation in state administrative proceedings and, where appropriate, civil litigation;
4. building information resources suitable for rural municipalities and citizens groups regarding solid waste management, and engaging in outreach to make these resources available;
5. preparation of policy reports on (1) the state and local regulatory regime governing siting and operation of solid waste landfills, (2) what is known regarding hazardous or toxic constituents of landfill leachate and the potential for surface water and groundwater releases of leachate, and (3) state measures that could reduce or eliminate toxic discharges from landfills.

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**Project Milestones:****Dates:**

Project Start	09/2000
assistance to local stakeholders	09/2000
introduction to rural towns & counties	09/2000
identify all local stakeholders	10/2000
report to GLNPO: NY regulatory regime	01/2001
report to GLNPO: landfill leachate	07/2001
report to GLNPO: NY state policy issues	01/2002
Project End	08/2002

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☒ Project Addresses Environmental Justice

**If So, Description of How:**

The sparse population and low tax base of rural communities where landfills are sited results in relatively lower levels of political and economic clout. These factors contribute to creating "identifiable communities of concern" "that experience a certain type of double jeopardy in the sense that they (1) experience higher levels of exposure to environmental stressors in terms of both frequency and magnitude and (2) are less able to deal with these hazards as a result of limited knowledge of exposures and disenfranchisement from the political process." Institute of Medicine, Toward Environmental Justice (1999) <[www.nap.edu](http://www.nap.edu)>. The project is targeted to communities of concern in this sense.

☒ Project Addresses Education/Outreach

**If So, Description of How:**

Early involvement with local stakeholders will provide regulatory education and other information relevant to risk determination, and foster cooperation among NGOs, local government officials and state and (where applicable) federal regulatory agency staff. Continuing outreach and assistance to local stakeholders will develop local knowledge of potential environmental impacts and local perspectives on the nature and level of environmental protection considered appropriate. Both early and continuing education efforts will enhance and expand opportunities for local stakeholder participation in environmental decision making.

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**Project Budget:**

	<b>Federal Share Requested (\$)</b>	<b>Applicant's Share (\$)</b>
<b>Personnel:</b>	25,500	76,500
<b>Fringe:</b>	5,865	17,595
<b>Travel:</b>	1,200	3,600
<b>Equipment:</b>	3,750	11,250
<b>Supplies:</b>	180	540
<b>Contracts:</b>	2,500	7,500
<b>Construction:</b>	0	0
<b>Other:</b>	5,000	15,000
<b>Total Direct Costs:</b>	43,995	131,985
<b>Indirect Costs:</b>	0	0
<b>Total:</b>	43,995	131,985
<b>Projected Income:</b>	20,000	20,000

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**Funding by Other Organizations (Names, Amounts, Description of Commitments):**

Proposed project represents one-half of organization's work; total Budget Request is one-quarter of projected budget (excluding operating expenses) over project period; projected income is estimated from sliding scale fees to municipalities, nominal fees from nongovernmental citizens organizations; additional funding will be pursued from the following:

EPA Environmental Justice Small Grants  
Ford Foundation  
Mott Foundation  
The Heinz Endowments  
Joyce Foundation  
The Beldon Fund  
W. Alton Jones Foundation

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**Description of Collaboration/Community Based Support:**

Active local citizens groups:

Stop Pollution in Orleans County  
Coalition on West Valley Nuclear Wastes (Erie and Cattaraugus counties)  
Concerned Citizens of Allegany County  
Concerned Citizens of Cattaraugus County

State-wide New York environmental organizations:

Environmental Advocates  
Citizens Environmental Coalition

Other:

University at Buffalo School of Law

(this list is growing)